



U.S. Department of Justice

*United States Attorney
Eastern District of New York*

MPR/RCH/ER/PP
F. #2019R00927

*271 Cadman Plaza East
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December 4, 2020

By ECF

The Honorable Brian M. Cogan
United States District Judge
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: United States v. Genaro Garcia Luna
Criminal Docket No. 19-576 (BMC)

Dear Judge Cogan:

The parties respectfully submit this status update to the Court in the above-captioned matter in advance of the conference scheduled to proceed by video on December 7, 2020 at 9 a.m. The parties respectfully request that the Court schedule the next status conference in approximately 60 days. The parties agree that an order of excludable delay is appropriate until the next status conference, based on the Court's previous complex case designation in this matter and Administrative Order 2020-26 (excluding time in all criminal jury trials until January 19, 2021, in light of the ongoing COVID-19 pandemic).

- Discovery
 - The government continues the process of collecting and reviewing discovery for production to the defendant on a rolling basis. Following the parties' last status letter on October 2, 2020, the government made an additional discovery production on November 6, 2020, totaling more than 760,000 pages of documents.
 - The November 6 production largely consisted of information downloaded from the defendant's electronic devices, which the government previously produced in February 2020, but reproduced in its latest production in a different format. (As noted in the parties' previous status letter, see Dkt. No. 52, the defense informed the government that the data was not in a format that it could access; the government subsequently worked with a third-party vendor to convert the data into a different format, which it then produced.) The production also

included, among other things, ledgers; business, financial, property and public records; Mutual Legal Assistance Treaty (“MLAT”) requests and responses; recorded communications; photos and video evidence. See Dkt. No. 53.

- The government also is awaiting responses from outstanding subpoenas, including subpoenas to the defendant and his companies. In addition, the government has submitted MLAT requests for evidence in the possession of several foreign governments. Although the government has received some responsive information, it is awaiting additional MLAT responses.
 - To date, the government has produced more than 955,000 pages of documents, as well as voluminous intercepted communications. The government has produced the majority of the discoverable material in its possession. It expects to make smaller productions on a rolling basis as it receives additional discoverable materials and/or identifies such material in its possession. It expects to make its next production, consisting primarily of MLAT and subpoena responses that it recently received, in the coming weeks.
 - On December 1, 2020, the government moved to delay disclosure of certain discoverable material related to certain potential witnesses in this case. See Dkt. Nos. 54-55.
- Trial Preparation
 - The parties continue to face delays in preparing for trial in this case in light of the pandemic, including limitations on the government’s ability to meet with incarcerated witnesses and limitations on defense counsel’s ability to meet with the defendant.
 - CIPA
 - The government has been able to resume its review of materials needed to complete litigation in this matter pursuant to the Classified Information Procedures Act, 18 U.S.C. App. 3, §§ 1-16 (“CIPA”), in this case, although it continues to face pandemic-related limitations. The government expects that the necessary steps to complete CIPA litigation will take several more months. The government will file its motion for a pretrial conference pursuant to Section

2 of CIPA, once it has a better sense of the anticipated schedule for completing CIPA litigation.

Respectfully submitted,

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cc: Cesar de Castro, Esq.
Clerk of the Court (BMC) (by ECF)